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In re Application of	:	
JACKSON et al.	:	
Application No.: 09/462,962	:	DECISION ON REQUEST
PCT No.: PCT/GB98/02115	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 16 July 1998	:	
Priority Date: 16 July 1997	:	
Attorney Docket No.: MEWE-010	:	
For: INTERACTION OF ATM, ATR OR DAN-	:	
PK WITH P53	:	

This decision is in response to "Submission under 37 CFR 1.497(d)" filed 27 June 2002.

### BACKGROUND

On 16 July 1998, applicants filed international application no. PCT/GB98/02115 which claimed a priority date of 16 July 1997, and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 January 1999. The international application named David Phillip Lane; Byron Hann; Stephen Jackson; Nicholas David Lakin and Graeme Camerion Murray Smith as applicants/inventors. Byron Hann was deleted as applicant/inventor under PCT Rule 92bis. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for entry into the national stage in the United States expired 30 months from the priority date, on 17 January 2000. (16 January 2000 was a Sunday.)

On 14 January 2000, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which identified the international application as PCT/US98/02115. Accompanied the transmittal letter, applicant included: (1) an information disclosure statement; (2) an unexecuted declaration; (3) a preliminary amendment; and (4) a check in the amount of \$1404 (\$840 as the basic national fee, \$18 for additional total claim, and \$546 for seven additional independent claims).

On 17 March 2000, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a one-month time limit in which to respond.

On 10 April 2000, applicant filed a second Transmittal Letter accompanied by an executed declaration identifying the international application as PCT/GB98/02115. The declaration was executed by: Stephen Jackson; Nicholas David Lakin; and Graeme Cameron Murray Smith.

On 26 April 2000, a Notification of Acceptance was issued identifying the 35 U.S.C.102(e) and 371(c) date as 10 April 2000. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 10 April 2000 and indicating that "this application is a 371 of PCT/US98/02115." The Notification of Acceptance and Official Filing Receipt were vacated on 08 June 2001.

On 30 May 2000 and 07 March 2001, applicant filed a "Request for Corrected Filing Receipt." In a decision dated 08 June 2001, applicants' request was dismissed without prejudice. Applicants were notified that the Transmittal Letter (Form PTO-1390) submitted by applicants misidentified the international application number as PCT/US98/02115. Based on applicant's error, a national stage application file was created for PCT/US98/02115, rather than for PCT/GB98/02115 and the application was abandoned for failure to pay the basic national fee prior to the 30 months from the priority date.

On 25 June 2001, applicant filed "Request for Reconsideration or in the Alternative Petition for Revival under 37 C.F.R. 1.137(a) or in the Alternative (B)." The petition was granted under 37 CFR 1.137(b) in a Decision dated 27 November 2001.

On 06 December 2001, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 10 April 2000. The Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) was vacated in a notification mailed 14 May 2002 because applicant had not fulfilled all the requirements under 35 U.S.C. 371.

On 27 June 2002, applicant filed the present petition under 37 CFR 1.497(d).

### DISCUSSION

In the instant case, the international application named David Phillip Lane; Byron Hann; Stephen Jackson; Nicholas David Lakin; and Graeme Cameron Murray Smith as applicants/inventors. Applicants request to delete David Phillip Lane as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

- (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

- (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a);
- (3) the fee set forth in 37 CFR 1.17(i); and
- (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicants have satisfied items (1), (2) and (3).

In regards to item (4), applicants have submitted a written consent of assignee to the correction in inventorship in compliance with 37 CFR 3.73(b).

### CONCLUSION

The request under 37 CFR 1.497(d) is GRANTED.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 16 July 1998 and a date of **25 June 2001** under 35 U.S.C. 371.

This application is being forwarded to the United States Designated/Elected Office for treatment in accordance with this decision, that is for: (1) correcting the title of the invention to INTERACTION OF ATM, ATR OR DAN-PK WITH P53 in the PALM database; (2) rescanning of the application; and (3) preparation and mailing of the Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903). Thereafter, an Official Filing Receipt will be mailed.



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